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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Applicants: Matthew L. Bisque et al.

Serial Number: 10/041,971

Art Unit: 2179

Filed: January 2, 2002

Examiner: Mylinh T. Tran

For: SYSTEM FOR OPERATING AN ASTRONOMICAL OBSERVATORY OVER A
NETWORK

AMENDED DECLARATION UNDER 37 CFR 1.131

Commissioner of Patents
Alexandria, Virginia 22313

Sir:

This document is an Amended Declaration under 37 CFR 1.131 to a similar declaration mailed to the Patent Office on October 12, 2005

The undersigned inventors/applicants declare that claims 1-30 of the subject patent application have been rejected under 35 U.S.C.102(e) based on U.S. Patent Application Publication 2002/0173877 to Zweig. This patent application discloses a similar invention to the invention described in the subject patent application, but does not claim the same patentable invention as described in the subject patent application.

The undersigned inventors/applicants declare that the invention described in the subject patent applicant was conceived before the filing date of the Zweig patent application and with due diligence reduced to practice by the filing of a provisional application. The filing date of the Zweig patent application is January 14, 2002 and based on an earlier filed Provisional application filed on January 16, 2001.

The undersigned inventors declare that the Zweig patent application was not published more than one year prior to the date the subject patent application was filed in

the U.S. Patent and Trademark Office. The subject patent application was filed in the Patent Office on January 2, 2002. The Zweig application was published on November 21, 2002.

The undersigned inventors/applicants declare that the following facts, shown in the enclosed Exhibit A, clearly show that the System for Operating an Astronomical Observatory over a Network described in the subject patent application was conceived prior to the effective date or the filing date of January 16, 2001 of the Zweig published patent application. Also, the conception of the invention found in Exhibit A, dated August 14, 2000, is clearly coupled with due diligence leading up to the constructive reduction to practice of the invention by filing the provisional application on January 29, 2001, Serial No. 60/264,302. These facts meet the requirement of a declaration under 37 CFR 1.131(a) and (b).

The Exhibits are as follows:

Exhibit A. An 8 page detailed description of the Astronomical Observation System and dated August 14, 2000. Pages 1 and 2 discuss a Background of the Invention, the Problems Solved and a Summary of the Invention. Pages 3, 4 and 5 disclose the Method of Controlling the Observatory using a Web Browser, the Configurations of the Browser Control of an Observatory, Observatory Control Transparency and Typical Night Sessions using the Observatory System. Pages 6, 7 and 8 disclose block diagrams of the invention. FIG. 1 illustrates the various features of the Astronomical Observatory System. FIGS. 2-7 illustrate the connections of the System with the CPU, the Web Browser, the Web Server, the Telescope Manager, the Camera Manager and the Dome Manager. The features shown in the drawings clearly make up the key elements, structure and function found in claims 1-30 of the subject application.

Exhibit B is a copy of the USPTO Filing Receipt for a Provisional Patent Application on the subject System for Operating an Astronomical Observatory over a Network. The Provisional Patent Application was filed in the Patent Office on January 29, 2001 and based on the invention disclosure described in Exhibit A. The subject patent application is based on the disclosure in the Provisional Patent Application. Examiner Tran has now made the Provisional Patent Application part of the patent application file.

Based on the above facts and detailed description of the conception of the invention dated August 14, 2000 and found in Exhibit A and due diligence in the constructive reduction to practice of the invention by the filing of the provisional patent application dated January 29, 2001, Exhibit B, the published patent application to Zweig should now be removed as a cited reference in the prosecution of the subject patent application.

The undersigned applicants/inventors declare further that all statements made herein of their own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signed at Golden, Colorado on this 10 day of February, 2006.



Stephen M. Bisque Thomas M. Bisque Daniel R. Bisque Mathew L. Bisque